

Natural Resource Damage Consent Decree Summary

SUMMARY

In 1983, the U.S. Environmental Protection Agency (EPA) and the State of Utah began to investigate the past and present mining operations on property owned by Kennecott Utah Copper Corporation (Kennecott). In 1989, the State of Utah filed a natural resource damage claim under CERCLA (Comprehensive Environmental Response, Compensation, and Liability Act) against Kennecott for damages to the ground water in the Southwest Jordan Valley (SWJV). An initial settlement was reached, but it was rejected as insufficient by the Federal District Court.

In 1995, a settlement agreement was reached between three parties: the State of Utah, Kennecott, and the Salt Lake Water Conservancy District. The Natural Resource Damage Consent Decree (Consent Decree) outlining the terms of the settlement was approved and entered with the U.S. District Court on August 21, 1995.

Under the Consent Decree, Kennecott was required to:

- Conduct and complete a Remedial Investigation/Feasibility Study (RI/FS) under the Superfund process.
- Drill a well or wells into the acid plume to begin the extraction of contaminants.
- Complete additional source control measures within 24 months, described as the completion of the Eastside Collection System and the Bingham Creek Cutoff System.
- Pay the State \$9 million cash to be placed in a Trust Fund to be used to “restore, replace, or acquire the equivalent of the surface or ground water resource for the benefit of the public in the Affected Area.”
- Provide to the State a \$28 million irrevocable letter of credit (ILC) to be held as part of the Trust Fund. Kennecott could receive a credit against this ILC by extracting, treating, and providing municipal quality water through a purveyor to the public in the affected area, for a period of 40 years.

As specified in the decree, interest earned on the monies in the Trust Fund remains as part of the Trust Fund.

STATUS

The RI/FS has been completed, and the Record of Decision for this site was signed on December 13, 2000.

Kennecott completed the well and is extracting water from the low pH (acidic) plume.

The reconstruction of the Large Bingham Reservoir was completed in stages; the last stage to be completed was the construction of Zone 2 in 1995. Construction of the Bingham Creek Cutoff Wall source control measure was completed in 1995. Construction of the Eastside Collection System source control measures (which included the water transfer pipes and the cutoff walls in

the other drainages along the eastern front of the Oquirrh Mountains) was completed in 1996. All source control measures are regulated under a State of Utah Ground Water Discharge Permit.

No funds have yet been expended from the Trust Fund to “restore, replace, or acquire the equivalent lost resource.” The cash settlement portion of the Trust Fund is valued at approximately \$13 million, as of June 2003. The ILC portion of the Trust Fund is valued at approximately \$44 million, as of September 2002. A proposal and contracts for extracting, treating, and providing municipal quality water from the sulfate plume have been provided to the Trustee for approval.

A public comment period on the above mentioned proposal and contracts is being held from September 2, 2003, to October 1, 2003. Two public hearings will take place on September 10, 2003 at West Jordan City Hall in West Jordan, and September 25, 2003 at the Department of Environmental Quality in Salt Lake City.

For further information, please contact (801) 536-4402.